

MINUTES

MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Call to Order: By **CHAIRMAN DARYL TOEWS** on February 15, 1999 at 3:20 P.M., in Room 402 Capitol.

ROLL CALL

Members Present:

Sen. Daryl Toews, Chairman (R)
Sen. Bill Glaser, Vice Chairman (R)
Sen. Jon Ellingson (D)
Sen. Alvin Ellis (R)
Sen. John Hertel (R)
Sen. Bob Keenan (R)
Sen. Debbie Shea (D)
Sen. Mike Sprague (R)
Sen. Spook Stang (D)
Sen. Mignon Waterman (D)
Sen. Jack Wells (R)

Members Excused: None.

Members Absent: None.

Staff Present: Eddye McClure, Legislative Branch
Janice Soft, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 428, 2/10/1999; SB 393,
2/10/1999; SB 238, 2/10/1999
Executive Action: SB 428 DPAA

HEARING ON SB 428

Sponsor: SEN. BARRY "SPOOK" STANG, SD 36, St. Regis

Proponents: Roger Swaringen, MSU-Northern
Dick Crofts, Commissioner of Higher Education
Spencer Sartorius, Office of Public Instruction

Opponents: None

Opening Statement by Sponsor:

SEN. BARRY "SPOOK" STANG, SD 36, St. Regis, said **SB 428** transferred the motorcycle safety training program from the Office of Public Instruction (OPI) to the Board of Regents. He said though the program was originally set up under OPI, it appeared the program was run by MSU-Northern. He said they had found a way to transfer this without going through the rigamarole of CI-75.

Proponents' Testimony:

Roger Swaringen, MSU-Northern, said one of the savings afforded by the bill was having only one bureaucracy instead of two. Currently, as the money passed through OPI, about 8.5% was retained there but would now be available to the program. Also, MSU-Northern was a direct delivery agency by nature, but that was not necessarily the main mission of OPI. He said MSU-Northern was originally approached by the motorcycle community to get involved and they would be very receptive for MSU-Northern to go to the Regents who would pass it on them.

Dick Crofts, Commissioner of Higher Education, said they rose in support of **SB 428** and were eager to take over the administration.

Spencer Sartorius, Office of Public Instruction (OPI), read his written testimony **EXHIBIT**(eds37a01).

Opponents' Testimony: None.

Questions from Committee Members and Responses: None

Closing by Sponsor: **SEN. BARRY "SPOOK" STANG** said he closed.

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HEARING ON SB 393

Sponsor: **SEN. MIGNON WATERMAN, SD 26, Helena**

Proponents: **Mark Lalum, Montana Vocational Association**

**John Malee, Montana Federation of Teachers & Montana
Education Association**

Opponents: Dick Crofts, Commissioner of Higher Education
Robert Kindrick, University of Montana
Judy Hay, Helena College of Technology
Bill Roope, Flathead Valley Community College

Opening Statement by Sponsor:

SEN. MIGNON WATERMAN, SD 26, Helena, said **SB 393** established the eligible agent for the Carl Perkins System and would establish OPI as the eligible agent. Also, according to **Section 1, Legislative Intent**, this was to be a seamless system of services developed cooperatively between the Superintendent of Public Instruction and the Commissioner of Higher Education's office in consultation with teachers, students, institutions and agencies that provided services and activities. She said this program had moved back and forth between secondary and post-secondary education since its establishment in 1963. **SEN. WATERMAN** said Carl Perkins was the federal funding for state K-12 and post-secondary vocational programs and explained she carried a bill in 1995 that omitted this agency; therefore, for four years there hadn't been one, though the office of the Commissioner of Higher Education continued to do that. Now, with the passage of **SB 393**, OPI would be the eligible agent. She informed the Committee the funds would still be split, with the secondary funds going to OPI and the Board of Public Education would contract with the Commissioner of Higher Education for the post-secondary programs. She called attention to **Section 3, Development of State Plan**, and said one of the changes to the Carl Perkins Act was the Displaced Homemaker's Network, a community-based organization, was no longer directly funded; rather, they were funded either through the secondary or post-secondary plan of the Carl Perkins Act. She said they were asking both the Commissioner's office and OPI to appoint two people each, making four people, and then select one person from the community based organization to work on the development of the state plan. **SEN. WATERMAN** informed the Committee there was a 2-year sunset to ensure the state plan was being developed and working as intended. She distributed copies of amendments **EXHIBIT(eds37a02)**.

Proponents' Testimony:

Mark Lalum, Teacher, Kalispell, said he represented Mark Branger, President, Montana Vocational Association, who was unable to be present. He read his written testimony **EXHIBIT(eds37a03)** and shared some remarks from **EXHIBIT(eds37a04)**.

John Malee, Montana Federation of Teachers (MFT) and Montana Education Association (MEA), said they wanted to go on record in support of **SB 393**.

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Opponents' Testimony:

Dick Crofts, Commissioner of Higher Education, said they rose in opposition to **SB 393** because they saw no compelling reason for change in administering the Grant. He said the Board of Regents had been identified as being responsible for this program since 1987; in 1994, changes were made in the University System which required statutory language changes and in that change the eligible state agency characterization was accidentally omitted. However, over the past four years, his Office had proceeded as if it still had that statutory authority and was unchallenged. It was **Mr. Crofts'** opinion his office had worked well with OPI, there had been very little interference and the secondary and post-secondary programs had operated largely independently with virtually no complaint, as far as he knew. He said they had contracted with OPI to administer and supervise secondary vocational and technical programs and stood ready to address whatever problems might be identified but he believed his office had been good stewards of the program -- he didn't see a reason to change at this time.

Robert Kindrick, Provost of University of Montana, said when the University System was restructured, three of his campuses contained Colleges of Technology; in fact, their participation in the Carl Perkins Grants were in excess of \$800,000 and all of their vocational students were provided basic support. He said this issue had some urgency and they had some concerns about the shift in administration. He stated the 1987 shift coincided with the Vocational Technical Schools shifting from the Board of Education to the Board of Regents and they believed the Board of Regents had done an excellent job of administering the Grants. He also expressed concern about OPI's experience in handling the post-secondary Grants, as per **SB 393**, because of the Board of Regent's administering since 1987. He referred to the comment that the Montana Vocational Association worked cooperatively with OPI but not the Board of Regents or Office of the Commissioner and said it was to be expected since that Association consisted entirely of secondary vocational programs. He maintained unless there were persuasive reasons, the program belonged with the Board of Regents. He also declared it was essential Montana higher education placed more emphasis on two-year programs because the occupational outlook showed that was where the young

people would find immediate employment. He saw their involvement in the Carl Perkins program as a support of two-year education.

Judy Hay, College of Technology - Helena, read her written testimony **EXHIBIT (eds37a05)**.

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Bill Roope, Flathead Valley Community College, agreed with the preceding testimony -- "If it isn't broke, don't fix it." But more importantly, what was imperative to their progress and development of vocational programs in the seamless education system was an awareness on the part of vocational education at the Commissioner's office. He referred to predictions that 85% of the new jobs by 2000 were going to require something greater than high school but less than a four-year degree; therefore, he supported tailoring Montana's education system to meet that goal and needs which would reside with higher education.

Informational Testimony:

Sheila Hogan, Director, Displaced Homemaker Center, Helena, talked about the special populations required to be served from the set-aside from the former Carl Perkins Program, which were displaced homemakers and single parents. She said with the reauthorization, community-based programs were no longer eligible recipients and there was no longer a set-aside to serve this population, although the law required this population to be served. She asked that an eligible agent be encouraged to ensure this special population was served, especially since they were right in the middle of the TANF (Temporary Assistance for Needy Families) five-year program. **Ms. Hogan** said agencies that operated these programs set the system up -- if the Carl Perkins funding was pulled, the system would topple. She also asked the Committee to look at ways community-based organizations could continue to provide service -- they had been providers for over 10 years.

Kimberly Kredolfer, Board of Public Education, said she was asked to do some research on **SB 393** because as originally drafted, the Board of Public Education was established as the designated agency. One of the concerns was whether OPI would qualify under federal law as the designated agency -- the Perkins Act itself required the eligible agency be a board. The distinction between an agency and a board was an agency could encompass things like commissions and boards; however, a board was a committee of people designated with particular authority to do something. She said she looked at regulations applying to the Perkins Act and found they specified that under a program covered by this part,

the secretary made a grant to the state agency designated by the authorizing statute for the program or to the state agency designated by the state in accordance with the authorizing statute. She commented it would be her interpretation the designated agency must still meet the definition in the designated statute, which would mean it would have to go to a board in order for the state to be eligible. **Ms. Kredolfer** noted Montana's system of higher education and secondary education was a bit different from many other states -- Board of Education (included Board of Regents and Board of Public Education) and the Constitutionally established office of the Superintendent of Public Instruction; most states that had a Board of Public Education had the Superintendent of Public Education as the CEO of its Board of Public Education. She said when looking back through the transcripts of the Constitutional Convention, Montana's higher and secondary education was originally structured that way also; however, toward the end of the Convention, it was split. She informed the Committee there was a 1975 Montana Supreme Court opinion which looked at the issue of which board could be designated as the board to supervise vocational education because at that time the Legislature had intended to make the super-board (Board of Education) the designated board. The Supreme Court determined the vocational technical centers would remain within the public school system under the jurisdiction of the Board of Public Education, or at some later time the Legislature could transfer that function to the University System; however, there was no discussion in that opinion that would suggest the Superintendent's Office should be the sole agency -- it wasn't a board.

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Questions from Committee Members and Responses:

SEN. BILL GLASER asked if changing it to "Office of Public Instruction" was within the scope and title of **SB 393**. **SEN. MIGNON WATERMAN** said it was. At first they thought it had to be the Board of Public Education; however, they researched it with the feds and found it didn't have to be.

SEN. GLASER commented the important thing about the bill was determining who the eligible agency was, and if that was the case, the Committee could determine it was the Board of Regents. **SEN. WATERMAN** affirmed both.

SEN. BARRY "SPOOK" STANG asked for an opinion on the information offered by **Kimberly Kredolfer**. **Geralyn Driscoll, OPI**, said she researched the question of whether a board had to be named as the agency for the Carl Perkins Grant and she found the statutory

language used "board." However, federal grants were administered through federal regulations and one of the grants under this was the Carl Perkins Grant -- the enabling statutes said if an agency was designated by a state, it could be a board or eligible agency. She said there was nothing that compelled a state to use a board structure -- in terms of its grants, the federal government required the Legislature accept the money; however, it didn't compel a state government to say there was only one way for a state to organize its educational system. In other words, it was acceptable to the federal government if the legislature designated an eligible state agency. It was true the federal government would accept the Board of Regents but there was nothing in federal law to compel sending that money to either the Board of Regents or the Board of Public Education. She reminded the Committee there was a State Constitutional case which would prevent giving the money to the Board of Education; however, that was state, not federal, law.

SEN. STANG asked if the money would have to be given to the Board of Public Education and have them designate OPI as the agency.

Ms. Driscoll said it wouldn't because federal regulations were whatever the State Legislature designated as the eligible agency was acceptable to the federal Department of Education.

SEN. JON ELLINGSON asked for the sponsor's response to "It's not broken -- why fix it?" **SEN. WATERMAN** responded the proponents and opponents were split between secondary and post-secondary -- this bill was in the middle of a turf battle.

SEN. ALVIN ELLIS asked if a previous legislature through Finance and Claims passed a bill to allow OPI staff for vocational help for secondary schools. **SEN. WATERMAN** said they had those staff and the legislature encouraged them to continue.

Closing by Sponsor:

SEN. MIGNON WATERMAN said Commissioner Crofts asked her to carry a bill which would designate higher education as the agent; however, she was called by a number of individuals who felt the system was broken and they needed to work together. She said this program was very important in kids moving through training programs from secondary to post-secondary; as she met with people from the secondary, post-secondary and community-based organizations, it became clear that whoever the eligible agent was, the system needed to be seamless. She said that was the reason for the sunset -- she wanted to ensure they would work together. **SEN. WATERMAN** said she chose this language because 67% of the money went to secondary so she followed the old adage, "Follow the money."

{Tape : 1; Side : A; Approx. Time Counter : 38}

(CHAIRMAN DARYL TOEWS relinquished the chair to VICE CHAIRMAN BILL GLASER in order to present SB 238).

HEARING ON SB 238

Sponsor: SEN. DARYL TOEWS, SD 48, Lustre

Proponents: None

Opponents: Roger Hagan, National Guard

Opening Statement by Sponsor:

SEN. DARYL TOEWS, SD 48, Lustre, said the National Guard had been trying for a number of years to get education for its members; in fact, they had requested money a number of times. He said he served on the Post-Secondary Education Committee this past year and one of the motions made and passed was to terminate the National Guard fee waiver program because it didn't appear it would be implemented anyway. He said the last line of SB 238 moved the National Guard out of one of the fee waiver groups because it didn't seem the Board of Regents should struggle with a decision to give fee waivers when it didn't have enough money to do it, i.e. why have it in the law when there was never enough money to carry it out.

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Proponents' Testimony: None.

Opponents' Testimony:

Roger Hagan, National Guard, read his written testimony EXHIBIT(eds37a06) and referred to EXHIBIT(eds37a07) and EXHIBIT(eds37a08).

Questions from Committee Members and Responses:

SEN. MIGNON WATERMAN asked what action had been taken on this request in HB 2. Roger Hagan said it currently had been deleted -- the amount was \$100,000 the first year of the biennium and \$150,000 the second year. He said they were working diligently to get it back in and believed there was a tremendous opportunity

for this to happen because it would be a start-up program and would be the first two years of a four-year program.

SEN. WATERMAN commented she noticed the brochure said scholarship program and the bill said fee waiver and asked what the difference was. **Roger Hagan** said the connection was at this point, the fee waiver was an educational benefit available in the law; however, if the tuition cash program became an operational reality they would be willing to come back and suggest removing the waiver. He stressed they didn't want to be left at the end of the 56th Legislative Session with nothing -- they needed something with which to work.

SEN. ALVIN ELLIS asked if there was a comparable program for other volunteer organizations such as firemen, etc. **SEN. TOEWS** said the whole list was in **SB 238**, beginning on Page 1.

SEN. BARRY "SPOOK" STANG commented the sponsor said the Post-Secondary Education Committee wanted to do away with the waiver and he wondered what the Veterans Affairs Committee's position was. **Roger Hagan** said that Committee voted unanimously to send a letter to the Post-Secondary Education Committee expressing opposition.

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SEN. JACK WELLS asked how the National Guard recruiting was going and how was the lack of an education incentive affecting it. **John Nugent, Education Services Officer, Montana Army National Guard**, said it was getting to be a very competitive environment, not only through the reserve component but also through the active. In order to be able to compete today, incentives had to be provided to service members, not only to come in but also to stay. He said when one looked at the retention and attrition issues, it cost \$60,000 every time a service member was lost and a replacement trained -- a considerable expense both to the state and the nation. He said they were trying to provide incentives both to enlist and gain an education as well as to stay; if they could get a service member to stay for up to 10 years, they could stabilize their force. He explained they couldn't afford to lose any force structure at either the state or national level so there was talk of instituting the draft and enhancement of benefits to encourage people to stay in. He said 45 of the 50 states had either a form of tuition assistance or fee waiver, ranging from a small percentage to 100%. **Mr. Nugent** said today's attitude was not one of patriotism but of "What's in it for me?", which made it very competitive.

Closing by Sponsor:

SEN. DARYL TOEWS said his Post-Secondary Education Committee sent a letter back to the Veterans Affairs Committee which said they didn't have a problem with discounting programs or financing tuition at different rates from other students; however, they weren't sure there really was a need. Proof of that need would be to get some sort of funding through their appropriations process -- often when there was a problem, a lot of money would follow it. **SEN. TOEWS** said he was sure the University System would "step up to the plate" when they saw the level of commitment come from the Legislative process.

(**VICE CHAIRMAN BILL GLASER** relinquished the chair to **CHAIRMAN DARYL TOEWS** for the remainder of the meeting).

INFORMATION ON SB 100

SEN. DARYL TOEWS said the question to be dealt with was how could school funding stay in compliance with CI-75 and distributed copies of **EXHIBIT (eds37a09)** and **EXHIBIT (eds37a10)**. He referred to **Exhibit 9**, Option 3, and said Jim Standaert, Legislative Fiscal Division, was attempting to raise the caps as much as he could -- the cost for the biennium would be \$55.702 million.

SEN. ALVIN ELLIS said he noticed the per-student entitlement was the same for both elementary and high school students. He understood the costs were different because elementary enrollment was declining and the districts were being hit by the caps. **SEN. TOEWS** said at this point they wanted to work with a given set of numbers so it could be determined where the Committee's questions were -- if there were certain things the members wanted run, that would be possible.

SEN. ELLIS referred to Option 2 and said even though the elementary entitlement was less, the increase in the secondary would almost be wiped out.

SEN. TOEWS said the difference between Option 1 and Option 2 was the \$2,000 in the base. He said he wasn't sure what was appropriate.

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SEN. ELLIS said it seemed to him there should be a difference in increase in entitlement for elementary as opposed to high school students because of the declining enrollment. Changes were happening because of the loss of elementary students which forced down budgeting capacity and forced then to the maximum much quicker. It was easier for the school board to suggest a 4%

increase if that budget ended up to be less than last year because of the loss of students. He said he didn't think there was a problem with the way the formula was formulated; besides that, statistics showed there were more schools at the base than at the maximum; however, there were more students at the max than at the base, which indicated the bigger schools were having more trouble with the caps than the smaller ones. **SEN. ELLIS** suggested that indicated they were having more trouble with the population shifts, i.e. small communities were not so likely to see shifts due to changing economic situations as were the larger ones. He said everything he had seen indicated the formula was still working quite well and he hadn't heard anything contrary to that except Don Waldron who said more should be pumped into the base and that position was to be understood -- that reflected the size of the schools he represented.

EXECUTIVE ACTION ON SB 428

Motion: SEN. STANG moved that SB 428 DO PASS.

Substitute Motion/Vote: SEN. STANG made a substitute motion that AMENDMENT SB042801.AEM **EXHIBIT**(eds37a11) DO PASS. Substitute motion carried unanimously 10-0.

Motion/Vote: SEN. STANG moved that SB 428 AS AMENDED DO PASS. Motion carried unanimously 10-0.

ADJOURNMENT

Adjournment: 4:31 P.M.

SEN. DARYL TOEWS, Chairman

JANICE SOFT, Secretary

DT/JS

EXHIBIT (eds37aad)